



[BILLING CODE 6760-01-P]

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1653

Criminal Restitution Orders

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (Agency) is amending its procedures for processing criminal restitution orders to: require an enforcement letter from the Department of Justice stating that restitution has been ordered under the Mandatory Victims Restitution Act; and provide that the Agency will treat a judgment ordering restitution under the Mandatory Victims Restitution Act as a final judgment. The Agency is also making two technical corrections.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Laurissa Stokes at (202) 942-1645.

SUPPLEMENTARY INFORMATION: The Agency administers the

Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

On July 13, 2015, the Agency published a proposed rule with request for comments in the Federal Register (80 FR 39975, July 13, 2015). The Agency received no comments and, therefore, is publishing the proposed rule as final without change.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal civilian employees and spouse beneficiaries who participate in the Thrift Savings Plan, which is a Federal defined contribution retirement savings plan created under the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514, and which is administered

by the Agency.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, 1501-1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the Federal Register. The rule is not a major rule as defined in 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1653

Claims, Government employees, Pensions, Retirement,
Taxes.

Gregory T. Long,

Executive Director, Federal Retirement Thrift Investment
Board

For the reasons stated in the preamble, the Agency
amends 5 CFR chapter VI as follows:

**PART 1653-COURT ORDERS AND LEGAL PROCESSES AFFECTING THRIFT
SAVINGS PLAN ACCOUNTS**

1. The authority citation for part 1653 continues to
read as follows:

Authority: 5 U.S.C. 8432d, 8435, 8436(b), 8437(e),
8439(a)(3), 8467, 8474(b)(5), and 8474(c)(1).

2. Amend § 1653.31, by revising paragraph (b) to read
as follows:

§ 1653.31 Definitions.

* * * * *

(b) As used in this subpart:

Criminal restitution order means a complete copy of a
judgment in a criminal case issued by a federal court
ordering restitution for a crime under 18 U.S.C. 3663A.

Enforcement letter means a letter received from the Department of Justice requesting a payment from a participant's TSP account to enforce a criminal restitution order.

3. Amend § 1653.33 by:

a. Revising paragraph (b) (2) and adding paragraph (b) (3),

b. Adding the word "criminal" before "restitution order" in paragraphs (c) (1) and (2); and

c. Revising paragraphs (c) (3), (c) (5), and (c) (6).

The revisions and addition read as follows:

§ 1653.33 Qualifying criminal restitution order.

* * * * *

(b) * * *

(2) The criminal restitution order must require the participant to pay a stated dollar amount as restitution.

(3) The criminal restitution order must be accompanied by an enforcement letter that states the restitution is ordered under 18 U.S.C. 3663A. The enforcement letter must expressly refer to the "Thrift Savings Plan" or describe the TSP in such a way that it cannot be confused with other Federal Government retirement benefits or non-Federal retirement benefits.

(c) * * *

(3) A criminal restitution order accompanied by an enforcement letter that requires the TSP to make a payment in the future;

* * * * *

(5) A criminal restitution order accompanied by an enforcement letter that requires TSP to make a series of payments;

(6) A criminal restitution order accompanied by an enforcement letter that designates the specific TSP Fund, source of contributions, or balance from which the payment or portions of the payment shall be made.

4. Amend § 1653.34 by revising the last sentence of paragraph (b) introductory text to read as follows:

§ 1653.34 Processing Federal tax levies and criminal restitution orders.

* * * * *

(b) * * * To be complete, a tax levy or criminal restitution order must meet all the requirements of § 1653.32 or § 1653.33; it must also provide (or be accompanied by a document or enforcement letter that provides):

* * * * *

5. Amend § 1653.35, by revising the introductory text and paragraph (a) to read as follows:

§ 1653.35 Calculating entitlement.

A tax levy or criminal restitution order can only require the payment of a stated dollar amount from the TSP. The payee's entitlement will be the lesser of:

(a) The dollar amount stated in the tax levy or enforcement letter; or

* * * * *

6. Amend § 1653.36 by:

a. Adding the word "tax" before the word "levy" in paragraph (a);

b. Adding the word "criminal" before the words "restitution order" wherever they appear and by adding the word "tax" before "levy" wherever it appears in paragraph (c);

c. Revising paragraph (d) introductory text;

d. Adding the word "tax" before the word "levy" in paragraph (g); and

e. Adding paragraph (h).

The revision and addition read as follows:

§ 1653.36 Payment.

* * * * *

(d) If a participant has funds in more than one type of account, payment will be made from each account in the following order, until the amount required by the tax levy or stated in the enforcement letter is reached:

* * * * *

(h) The TSP will not hold a payment pending appeal of a criminal restitution order or the underlying conviction. The TSP will treat the criminal restitution order as a final judgment pursuant to 18 U.S.C. 3664(o) and process payment as provided by this subpart.

[FR Doc. 2015-21303 Filed: 8/31/2015 08:45 am; Publication Date: 9/1/2015]